Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 18, 1995.

David P. Howekamp,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (198)(i)(F) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(F) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 430, adopted on May 25,1994.

* * * * *

[FR Doc. 95–26456 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IA–18–1–6984a; FRL–5303–9]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: By this action the EPA gives full approval to the State Implementation Plan (SIP) submitted by the state of Iowa for the purpose of fulfilling the requirements set forth in the EPA's General Conformity rule. The SIP was submitted by the state to satisfy the Federal requirements in 40 CFR 51.852 and 93.151.

DATES: This action will be effective December 26, 1995 unless by November 24, 1995 adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: Section 176(c) of the Clean Air Act, as amended (the Act), requires the EPA to promulgate criteria and procedures for demonstrating and ensuring conformity of Federal actions to an applicable implementation plan developed pursuant to section 110 and part D of the Act. Conformity to an SIP is defined in the Act as meaning conformity to an SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS), and achieving expeditious attainment of such standards. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP. On November 30, 1993, the EPA promulgated the final rule (hereafter referred to as the General Conformity rule), which establishes the criteria and procedures governing the determination of conformity for all Federal actions, except Federal highway and transit actions.

The General Conformity rule also establishes the criteria for EPA approval of SIPs. See 40 CFR 51.852 and 93.151. These criteria provide that the state provisions must be at least as stringent as the requirements specified in EPA's General Conformity rule, and that they can be more stringent only if they apply equally to Federal and nonfederal entities (Section 51.851(b)).

On March 10, 1994, the EPA promulgated a nonattainment designation for part of Muscatine County, Iowa, in response to violations of the SO_2 NAAQS. Section 51.851 and section 93.151 of the General

Conformity rule require that states submit an SIP revision containing the criteria and procedures for assessing the conformity of Federal actions to the applicable SIP, within 12 months after November 30, 1993, or within 12 months of an area's designation to nonattainment, whichever is later. As a result of EPA's promulgation of the nonattainment designation, an SIP revision addressing the requirements of the General Conformity rule became due on April 11, 1995.

On January 26, 1995, the state of Iowa submitted an SIP revision meeting the requirements of §§ 51.851 and 93.151 of the General Conformity rule. The submission adopts by reference 40 CFR part 93, subpart B, except 40 CFR 93.151. The omitted section contains the criteria for EPA approval of General Conformity SIP revisions, and also states the effect of EPA approval of an SIP revision. It is not a necessary component of the state's substantive rules governing general conformity determinations.

The Iowa rule also modifies 40 CFR 93.160(f) and 40 CFR 93.160(g) to adapt the language in the Federal regulations to the state rule. It deletes the language in § 93.160(f) stating that the ''implementation plan revision required in § 93.151 shall provide that,'' and retains the substantive requirement in paragraph (f). It also revises paragraph (g) to refer to adoption and approval of the Iowa SIP revision, in place of the reference in EPA's rule to SIP revisions generally.

A public hearing was held on November 14, 1994. The rule was filed on December 30, 1994, and became effective on January 18, 1995.

Because the Iowa rule adopts the substantive requirements of EPA's rule by reference, it meets the criteria in §§ 51.851 and 93.151 for approval of General Conformity SIP revisions.

EPA Action

By this action EPA grants full approval of Iowa's January 26, 1995, submittal. This SIP revision meets all of the requirements set forth in 40 CFR 51.851 and 93.151.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP, the state has elected to adopt the program provided for under section 110 of the the CAA. These rules may bind state and local governments to perform certain actions, and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to state or local governments in the aggregate or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 6, 1995.

William Rice,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(62) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(62) Revised chapter 31, rule 567–31.2, submitted on January 26, 1995, incorporates by reference EPA's regulations relating to determining conformity of general Federal actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) Amendment to chapter 31, ''Nonattainment Areas'' Iowa Administrative Code, rule 567–31.2. Effective February 22, 1995.

[FR Doc. 95–26461 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA5–1–5539a; FRL–5309–1]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves a revision to the State implementation plan (SIP) submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable moderate nonattainment area PM–10 SIP for Tacoma, Washington. On October 12, 1994, EPA approved certain separable sections and conditionally approved other sections of the Tacoma PM–10 SIP revision (59 FR 51506 (October 12, 1994)). In this action, EPA finds the State has fulfilled the terms of the conditional approval and that the SIP submitted fully satisfies the requirements of the Federal Clean Air Act.

DATES: This action is effective on December 26, 1995 unless adverse or critical comments are received by November 24, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and Washington State Department of Ecology, 4450 Third Avenue SE., Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Claire Hong, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1813.

SUPPLEMENTARY INFORMATION:

I. Background

The Tacoma, Washington, area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments (CAAA) of 1990.[1] *See* 56 FR 56694 (November 6, 1991) (official designation codified at 40 CFR 81.348). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[2] EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this document and the supporting rationale. In this rulemaking action on the State of Washington's moderate PM–10 SIP for the Tacoma nonattainment area (referred to as Tacoma or the Tacoma Tideflats), EPA is applying its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the addresses indicated above. Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under CAA section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to ensure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to ensure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area (see sections 172(c), 188, and 189 of the Act).

Additional provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see CAA section 189(a)). The Washington State Department of Ecology (WDOE) submitted the new source review requirements for this area, which were approved by EPA on August 29, 1994 (59 FR 44385).

Such States also were required to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see CAA section 172(c)(9) and 57 FR 13510–13512 and 13543–13544). EPA addresses the contingency measures the State has submitted for Tacoma below.

II. This Action

In this action, EPA is granting full approval of the plan revisions submitted to EPA for Tacoma, Washington on

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' and, as appropriate, in today's notice and supporting information.